

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00949-BNB

ROBERTO DEPHILIPPIS,

Plaintiff,

v.

[NO NAMED DEFENDANT],

Defendant.

ORDER OF DISMISSAL

Plaintiff, Roberto DePhilippis, is a prisoner in the custody of the Colorado Department of Corrections at the Denver Reception and Diagnostic Center. He filed *pro se* a letter (ECF No. 1) appearing to assert civil rights violations pursuant to 42 U.S.C. § 1983. The Court reviewed the letter and determined it was deficient. Therefore, on April 2, 2014, Magistrate Judge Boyd N. Boland entered an order (ECF No. 3) directing Mr. DePhilippis to cure certain enumerated deficiencies in the case within thirty days if he wished to pursue his claims.

The April 2 order pointed out that Mr. DePhilippis failed to submit either the \$400.00 filing fee or a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 on the proper, Court-approved form. The April 2 order also pointed out that Mr. DePhilippis failed to submit a Prisoner Complaint on the proper, Court-approved form. The April 2 order directed Mr. DePhilippis to obtain, with the assistance of his case manager or the facility's legal assistant, the Court-approved forms for filing a

Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 and a Prisoner Complaint. The April 2 order warned him that if he failed to cure the designated deficiencies within thirty days, the action would be dismissed without prejudice and without further notice.

Mr. DePhilippis has failed to cure the designated deficiencies within the time allowed or otherwise to communicate with the Court in any way. Therefore, the action will be dismissed without prejudice for Mr. DePhilippis' failure to cure the designated deficiencies as directed within the time allowed and for his failure to prosecute.

Finally, the Court certifies pursuant to § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Mr. DePhilippis files a notice of appeal he also must pay the full \$505.00 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24.

Accordingly, it is

ORDERED that the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for the failure of Plaintiff, Roberto DePhilippis, to cure the deficiencies designated in the order to cure of April 2, 2014, within the time allowed and for his failure to prosecute. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied. It is

FURTHER ORDERED that any pending motions are denied as moot.

DATED at Denver, Colorado, this 14th day of May, 2014.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK
Senior Judge, United States District Court